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IN THE

Supreme Court of the United States

OCTOBER TERM 1970

No. 1652

FIDELITY AND CASUALTY COMPANY OF NEW YORK, ET AL,

Petitioners,

versus

THE NATIONAL BANK OF COMMERCE IN NEW ORLEANS,

Respondent.

BRIEF IN OPPOSITION TO APPLICATION FOR WRIT OF CERTIORARI ON BEHALF OF THE NATIONAL BANK OF COMMERCE IN NEW ORLEANS, RESPONDENT

ERNEST A. CARRERE, JR. of
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New Orleans, Louisiana 70112
Attorneys for Respondent

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MAY IT PLEASE THE COURT:

This identical issue has been presented to the Court on two previous occasions, and the Court has denied petitions for Writ of Certiorari.

> *First National Bank of Decatur vs. Insurance Company of North America,* Certiorari Denied, June 1, 1970, 90 S. Ct. 1844, 398 U.S. 939, 26 L. Ed. 2d 272.

Fidelity and Casualty Company vs. Bank of Altenburg, February 28, 1955, 75 S. Ct. 440, 348 U.S. 952, 99 L. Ed. 744.

This identical issue has been presented to other Courts of Appeal on previous occasions, and the Judgment of the United States Court of Appeals for the Fifth Circuit in the instant case is consistent with these decisions.

United Pacific Company vs. Idaho First National Bank, 378 F. 2d 62 (9th Cir. 1967).

Indemnity Insurance Company vs. Pioneer Valley Savings Bank, 343 F. 2d 634 (8th Cir. 1965).

United States vs. Western Contracting Corporation, 341 F. 2d 383 (8th Cir. 1965).

Hartford Accident and Indemnity Company vs. Federal Deposit Insurance Corporation, 204 F. 2d 933 (8th Cir. 1953).

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CERTIFICATE

I, Ernest A. Carrere, Jr., of Jones, Walker, Waechter, Poitevent, Carrere & Denegre, attorneys for Respondent, being a member in good standing of the Bar of the Supreme Court of the United States, do hereby certify that a copy of the foregoing Brief in Opposition to Petition for Writ of Certiorari has been served upon opposing counsel, George M. Leppert, 1707 Pere Marquette Building, New Orleans, Louisiana 70112 and Stanley E. Loeb, Suite 2620, 225 Baronne Street, New Orleans, Louisiana 70112, by depositing same, postage prepaid and properly addressed, in the United States mail on May ____, 1971.

ERNEST A. CARRERE, JR.

CERTIORARI
DENIED
N.C.R.